

Mail Stop Interference  
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Paper 1  
Filed: August 27, 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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JOHN **EMERY**, KB TAN, ALEM TRUNEH,  
AND PETER YOUNG  
Junior Party  
(U.S. Patent 5,885,800),

v.

REINER **GENTZ**, REINHARD EBNER, GUO-LIANG YU,  
STEVEN M. RUBEN, JIAN NI AND PING FENG  
Senior Party  
(U.S. Patent Application 09/006,352).

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Patent Interference No. 105,701 (MPT)  
(Technology Center 1600)

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DECLARATION - Bd.R. 203(b)<sup>1</sup>

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<sup>1</sup> "Bd.R. x" may be used as shorthand for "37 C.F.R. ' 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1           **Part A. Declaration of interference**

2           An interference is declared (35 U.S.C. § 135(a)) between the above-  
3 identified parties. Details of the application(s), patent (if any), reissue application  
4 (if any), count(s) and claims designated as corresponding or as not corresponding  
5 to the count(s) appear in Parts E and F of this DECLARATION.

6           **Part B. Judge managing the interference**

7           Administrative Patent Judge Michael P. Tierney has been designated to  
8 manage the interference. Bd. R. 104(a).

9           **Part C. Standing order**

10          A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this  
11 DECLARATION. The STANDING ORDER applies to this interference.

12          **Part D. Initial conference call**

13          A telephone conference call to discuss the interference is set for 2:00 p.m. on  
14 October 22, 2009 (the Board will initiate the call).

15          No later than four business days prior to the conference call, each party shall  
16 file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204;  
17 SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

18          A sample schedule for taking action during the motion phase appears as  
19 Form 2 in the STANDING ORDER. Counsel are encouraged to discuss the  
20 schedule prior to the conference call and to agree on dates for taking action.

1 A typical motion period lasts approximately eight (8) months. Counsel should be  
2 prepared to justify any request for a shorter or longer period.

3 **Part E. Identification and order of the parties**

4 Junior Party

5 Named Inventors: JOHN EMERY, WYNNEWOOD, PA  
6 KB TAN, PHILADELPHIA, PA  
7 ALEM TRUNEH, WEST CHESTER, PA  
8 PETER YOUNG, LAWRENCEVILLE, NJ

9 Involved Patent: U.S. Patent 5,885,800, issued on  
10 March 23, 1999, based upon  
11 U.S. Application 08/794,796  
12 filed February 4, 1997

13 Title: DNA Encoding Tumor Necrosis Related Receptor,  
14 TR4

15 Assignee: SmithKline Beecham Corporation  
16

17 Senior Party

18 Named inventors: REINER GENTZ, SILVER SPRING, MD  
19 REINHARD EBNER, GAITHERSBURG, MD  
20 GUO-LIANG YU, DARNESTOWN, MD  
21 STEVEN M. RUBEN, OLNEY, MD  
22 JIAN NI, ROCKVILLE, MD  
23 PING FENG, GAITHERSBURG, MD  
24

1       Involved Application:   U.S. Application 09/006,352  
2                                    filed January 13, 1998  
3       Title:                    Tumor Necrosis Factor Receptors 6α & 6β  
4       Assignee:                Human Genome Sciences  
5

6       The senior party is assigned exhibit numbers 1001-1999. The junior party is  
7 assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO ¶ 154.2.1. The senior  
8 party is responsible for initiating settlement discussions. SO ¶ 126.1.

9       **Part F. Count and claims of the parties**

10                                   Count 1

11       A polynucleotide according to claim 4 of U.S. Patent 5,885,800 or claim 40  
12 of U.S. Application 09/006,352.

13       The claims of the parties are:

14               Emery '800: 1-16

15               Gentz '352: 24-117, 285, 287, 291, 292, 295, 297 and 302-305

16       The claims of the parties which correspond to Count 1 are:

17               Emery '800: 2, 4-8 and 11-16

18               Gentz '352: 24-117, 285, 291, 292, 295, 297 and 302-305

1       The claims of the parties which do not correspond to Count 1, and therefore  
2 are not involved in the interference, are:

3               Emery '800: 1, 3, and 9-10

4               Gentz '352: 287

5       The parties are accorded the following benefit for Count 1:

6               Emery is accorded benefit of the filing date of the earlier filed  
7 application:

8               None

9               Gentz is accorded benefit of the filing date of the earlier filed  
10 application:

11              U.S. Provisional Application 60/035,496, filed January 14, 1997.

1 **Part G. Heading to be used on papers**

2 The following heading must be used on all papers filed in this interference,  
3 see SO ¶ 106.1.1:

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**Part H. Order form for requesting file copies**

When requesting copies of files, use of SO Form 4 will greatly expedite processing of the request. Please attach a copy of Parts E and F of this DECLARATION with a hand-drawn circle around the patents and applications for which a copy of a file wrapper is requested.

/Michael P. Tierney/  
Administrative Patent Judge

Enc:

Copy of STANDING ORDER  
Copy U.S. Patent 5,885,800  
Copy of claims of U.S. Application 09/006,352

Revised 3 January 2006

cc (via overnight delivery):

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